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Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Report of the Sixth Committee

Rapporteur: Ms. Mamadou Moustapha **Loum** (Senegal)

I. Introduction

1. The item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" was included in the provisional agenda of the sixty-first session of the General Assembly in accordance with Assembly resolution 59/36 of 2 December 2004.

2. At its 2nd plenary meeting, on 13 September 2006, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 8th and 21st meetings, on 18 October and 9 November 2006. The statements made during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/61/SR.8 and 21).

4. For its consideration of the item, the Committee had before it the report of the Secretary-General on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (A/61/222 and Add.1).

II. Consideration of draft resolution A/C.6/61/L.9

5. At the 21st meeting, on 9 November, the representative of Sweden, on behalf of Albania, Argentina, Australia, Austria, Belarus, Belgium, Belize, Brazil, Bulgaria, Burkina Faso, Cambodia, Canada, Chile, China, Croatia, Cyprus, the Czech Republic, Denmark, the Dominican Republic, Ecuador, El Salvador, Estonia,

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Ethiopia, Fiji, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Jordan, Kenya, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malta, Mexico, Moldova, Monaco, Mongolia, Namibia, the Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Peru, Poland, Portugal, Romania, the Russian Federation, Senegal, Serbia, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Swaziland, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania and Uruguay, introduced a draft resolution entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" (A/C.6/61/L.9).

6. At the same meeting, the Committee adopted draft resolution A/C.6/61/L.9 without a vote (see para. 8).

7. Before the adoption of the draft resolution, the representatives of Egypt and Iran (Islamic Republic of) made statements in explanation of position (see A/C.6/61/SR.21).

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,

Recalling its resolutions 32/44 of 8 December 1977, 34/51 of 23 November 1979, 37/116 of 16 December 1982, 39/77 of 13 December 1984, 41/72 of 3 December 1986, 43/161 of 9 December 1988, 45/38 of 28 November 1990, 47/30 of 25 November 1992, 49/48 of 9 December 1994, 51/155 of 16 December 1996, 53/96 of 8 December 1998, 55/148 of 12 December 2000, 57/14 of 19 November 2002 and 59/36 of 2 December 2004,

Having considered the report of the Secretary-General,[1]

Thanking Member States and the International Committee of the Red Cross for their contribution to the report of the Secretary-General,

Reaffirming the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for those rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the possibility of making use of the International Humanitarian Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I[2] to the Geneva Conventions of 1949,[3]

Stressing also the possibility for the International Humanitarian Fact-Finding Commission to facilitate, through its good offices, the restoration of an attitude of respect for the Geneva Conventions and Protocol I,

Stressing further the need to consolidate the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level, and expressing concern about all violations of the Geneva Conventions and the Additional Protocols,[4]

Noting with satisfaction the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

Noting with appreciation the meetings of representatives of those bodies organized by the International Committee of the Red Cross to facilitate the sharing of concrete experience and the exchange of views on their roles and on the challenges they face,

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[1] A/61/222 and Add.1.

[2] United Nations, *Treaty Series*, vol. 1125, No. 17512.

[3] Ibid., vol. 75, Nos. 970-973.

[4] Ibid., vol. 1125, Nos. 17512 and 17513.

Mindful of the role of the International Committee of the Red Cross in offering protection to the victims of armed conflicts,

Noting with appreciation the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions and the Additional Protocols,

Recalling that the Twenty-eighth International Conference of the Red Cross and Red Crescent stressed the need to reinforce the implementation of and respect for international humanitarian law,

Welcoming the entry into force of the Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Protocol V),[5]

Noting the adoption, on 8 December 2005, of the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III),

Welcoming the significant debate generated by the recent publication of the study on Customary International Humanitarian Law by the International Committee of the Red Cross, and looking forward to further constructive discussion on the subject,

Calling upon Member States to disseminate knowledge of international humanitarian law as widely as possible, and calling upon all parties to armed conflict to apply international humanitarian law,

Recalling the entry into force, on 9 March 2004, of the second Protocol[6] to the 1954 Hague Convention, and appreciating the ratifications received so far,

Acknowledging the fact that the Rome Statute of the International Criminal Court,[7] which entered into force on 1 July 2002, includes the most serious crimes of international concern under international humanitarian law, and that the Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

Acknowledging also the usefulness of discussing in the General Assembly the status of instruments of international humanitarian law relevant to the protection of victims of armed conflicts,

1. *Welcomes* the universal acceptance of the Geneva Conventions of 1949,[3] and notes the trend towards a similarly wide acceptance of the two Additional Protocols of 1977;[4]

2. *Calls upon* all States parties to the Geneva Conventions that have not yet done so to consider becoming parties to the Additional Protocols at the earliest possible date;

[5] See CCW/MSP/2003/3, annex V, appendix II.

[6] United Nations, *Treaty Series*, vol. 2253, No. 3511.

[7] Ibid., vol. 2187, No. 38544.

3. *Calls upon* all States that are already parties to Protocol I,[5] or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol and to consider making use, where appropriate, of the services of the International Humanitarian Fact-Finding Commission in accordance with the provisions of article 90 of Protocol I;

4. *Calls upon* all States that have not yet done so to consider becoming parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict[6] and the two Protocols thereto, and to other relevant treaties on international humanitarian law relating to the protection of victims of armed conflict;

5. *Calls upon* all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation;

6. *Notes with appreciation* the Declaration and Agenda for Humanitarian Action adopted by the Twenty-eighth International Conference of the Red Cross and Red Crescent, which noted that all States must take national measures to implement international humanitarian law, including training of the armed forces and making this law known among the general public, as well as the adoption of legislation to punish war crimes in accordance with their international obligations;

7. *Affirms* the necessity of making the implementation of international humanitarian law more effective;

8. *Welcomes* the advisory service activities of the International Committee of the Red Cross in supporting efforts made by Member States to take legislative and administrative action to implement international humanitarian law and in promoting the exchange of information on those efforts between Governments;

9. *Also welcomes* the increasing number of national commissions or committees for the implementation of international humanitarian law and for promoting the incorporation of treaties on international humanitarian law into national law and disseminating the rules of international humanitarian law;

10. *Calls upon* States to consider becoming parties to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;[7]

11. *Requests* the Secretary-General to submit to the General Assembly at its sixty-third session a report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

12. *Decides* to include in the provisional agenda of its sixty-third session the item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".

[5] Ibid., vol. 249, No. 3511.

[6] Ibid., vol. 2173, No. 27531.